



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

June 24, 2020

CERCLA 104(e) INFORMATION REQUEST
URGENT LEGAL MATTER: PROMPT REPLY REQUESTED
CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Jamieson Schiff
Executive Counsel
Textron, Inc.
40 Westminster Street
Providence, Rhode Island 02903

Re: Request for Information Pursuant to Section 104 of CERCLA for the LL Harwell Road Private Well Contamination Site in Gastonia, Gaston County, North Carolina

Dear Mr. Schiff,

The United States Environmental Protection Agency (EPA) is currently investigating the source, extent and nature of the release or threatened release of hazardous substances, pollutants, or contaminants, or hazardous wastes on or about the LL Harwell Road Private Well Contamination Site in Gastonia, Gaston County, North Carolina (the Site). This investigation requires identifying the nature and quantity of hazardous substances, pollutants, or contaminants that were treated, stored, or disposed at the Site, and the nature or extent of their release or threatened release at or from the Site.

Site Background

In March 2017, the North Carolina Department of Environmental Quality (NCDEQ) requested EPA assistance after it discovered that two groundwater wells serving approximately 10 residences were contaminated with several volatile organic compounds (VOCs), including [cis-1,2-dichloroethene (cis-1,2-DCE) and] trichloroethene (TCE). After sampling and testing the water supply, the EPA installed a water filtration system and then installed new water lines, removed the affected residences from the contaminated wells, and placed them on the municipal water supply. No further response action is planned at the Site.

The Site is located near two former removal sites that involved groundwater contaminated with TCE. The first site—the Harwell Road Septic Pits Site (Septic Pits Site) — involved an area used by its former owner, a man named Mr. R.A. McKee, for the disposal of septic wastes and industrial sludges. Homelite Division of Textron, Inc. (Homelite) was identified as a potentially responsible party for the Septic Pits Site, and the EPA issued a Unilateral Administrative Order (UAO) in 1989 directing Homelite and Mr. McKee to excavate and dispose of the soils in the former septic pits and provide an alternative water supply for the residents in the affected area. The EPA later determined, however, that neither Homelite nor the area where Mr. McKee disposed of wastes and sludges was the source of the TCE contamination.

Therefore, the EPA amended the UAO in 1990 and created a second site: the Harwell Road TCE Removal Site (TCE Removal Site).

During the cleanup of the Septic Pits Site and the TCE Removal Site, dozens of 55-gallon drums were discovered buried near the pits. Many of these drums contained high levels of TCE, and at least two drums were found in or directly adjacent to the septic pit disposal area. Soil sampling also confirmed that TCE was present in some areas in and around the septic pit disposal area, despite the 1990 finding that the pits were not the source of the TCE. The source of the drums and the TCE in the disposal area was never identified.

The EPA believes that the source of TCE that contaminated the nearby sites is the same source of TCE that contaminated the private wells in the present Site. The EPA therefore seeks Textron's cooperation in its investigation of the source of the TCE contamination.

Statutory Authority

Pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604, as amended, you are hereby requested to respond to the enclosed Information Request.

Compliance with the enclosed Information Request is mandatory. Failure to respond fully and truthfully to the Information Request within thirty (30) days of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by the EPA pursuant to Section 104(e) of CERCLA. This statute permits the EPA to seek the imposition of penalties of up to \$58,328 for each day of continued non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq.

Your response to this Information Request should be mailed to:

Ray Strickland
Enforcement Project Manager
Enforcement & Information Management Branch
Superfund & Emergency Management Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Strickland.Ray@epa.gov

Due to the legal ramifications of your failure to respond properly, the EPA strongly encourages you to give this matter your immediate attention and to respond to this Information Request within the time specified above. If you have any legal or technical questions relating to this Information Request, you may consult with the EPA prior to the time specified above. Please direct legal questions to Graham Burkhalter, Assistant Regional Counsel at (404) 562-9519, or by email at burkhalter.robert@epa.gov. Technical questions should be directed to Ray Strickland at (404) 562-8890, or at the email address above.

Thank you for your cooperation in this matter.

Sincerely,

Ray Strickland

Ray Strickland
Enforcement Project Manager
Superfund & Emergency Management Div.

Enclosure

LL HARWELL PRIVATE WELL CONTAMINATION SITE INFORMATION REQUEST

INSTRUCTIONS

1. Please provide a separate narrative response for every Question and subpart of a Question set forth in this information request.
2. Precede each answer with the Question (or subpart) and the number of the Question (and the letter of a subpart of a Question, if applicable) to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, ***you must supplement*** your response to the U.S. Environmental Protection Agency. Moreover, should you find, at any time after submission of your response, that any portion of the submitted information is false or misrepresents the truth or, though correct when made, is no longer true, you must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question (and the letter of a subpart of a Question, if applicable) to which it responds.
5. You may assert a business confidentiality claim covering part or all of the information that you submit in response to this request. Any such claim must be made by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet or a stamped or typed legend or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential.” Confidential portions of otherwise non-confidential documents should be clearly identified and may be submitted separately to facilitate the identification and handling by the EPA. If you make such a claim, the information covered by that claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Subpart B of 40 CFR Part 2. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. The requirements of 40 CFR Part 2 regarding business confidentiality claims were published in the Federal Register on September 1, 1976, and were amended September 8, 1976, and December 18, 1985.
6. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as “Personal Privacy Information.”
7. Objections to questions. If you still have objections to some or all of the questions within the Information Request, you are still required to respond to each of the questions.

LL HARWELL PRIVATE WELL CONTAMINATION SITE INFORMATION REQUEST

DEFINITIONS

The following definitions shall apply to the following words as they appear in this enclosure:

1. The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
2. The term “arrangement” means every separate contract or other agreement between two or more persons.
3. The terms “document(s)” and “documentation” mean any object that records, stores, presents, or transmits information, and include, but are not limited to, writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including (by way of illustration and not by way of limitation) any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order; letter, correspondence, fax, telegram, telex, postcard; record book, minutes, memorandum of meetings and telephone and other conversations, telephone messages, inter- or intra-office communications; agreement, contract, and the like; log book, diary, calendar, desk pad, journal, scrapbook; bulletin, circular, form, pamphlet, statement; report, notice, analysis, notebook; graph or chart; photostat or other copy of any document; microfilm or other film record, photograph, or sound recording on any type of device; any tape, disc, or other type of memory generally associated with computers and data processing, together with the programming instructions and other written material necessary to use such disc, or disc pack, tape or other type of memory and printouts of such disc, or disc pack, tape or other type of memory; and attachments to, or enclosures with, any document as well as any document referred to in any other document. The term “document” shall also mean any electronically stored information, including but not limited to emails, word processing files, spreadsheets, presentations, databases, geographic information system (“GIS”) maps, computer-aided design files, scanned or digital photos, and scanned document images.
4. The term “identify” means, with respect to a natural person, to set forth the person’s name, present or last known business and personal addresses, email address(es), and telephone numbers, and present or last known job title, position or business.
5. The term “identify” means, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (e.g. corporation, partnership, etc.), organization, if any, a brief description of its business, and to indicate whether it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist.
6. The term “identify” means, with respect to any document(s), to provide its customary business description, its date, its number if any (invoice or purchase order number), subject matter, the identity of the author, addressor, addressee and/or recipient, and the present location of such document.

7. The term “the Site” shall mean and include the LL Harwell Road Private Well Contamination Site in Gastonia, Gaston County, North Carolina.
8. The term “you” or “Respondent” shall mean the addressee of this Request, the addressee’s officers, managers, employees, contractors, trustees, partners, successors and agents.
9. The term “Homelite” means Homelite Division of Textron, Inc. and/or Homelite-Jacobsen Division of Textron, Inc., including their immediate corporate family, all subsidiaries, all entities in which Homelite or its subsidiary maintains a controlling interest, all entities in which Homelite or its subsidiary is a principal owner, all entities over which Homelite or its subsidiary has the ability to exercise significant influence (or control) over the operating or financial policies, and all entities with which Homelite or its subsidiary has a substantial business relationship.
10. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in CERCLA, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Clean Water Act, the Safe Drinking Water Act, or the Clean Air Act and their implementing regulations, in which case the statutory or regulatory definitions shall control.

LL HARWELL PRIVATE WELL CONTAMINATION SITE INFORMATION REQUEST

QUESTIONS

1. List all solvents and/or volatile organic compounds (VOCs), including but not limited to trichloroethene (TCE), that Homelite used or acquired at its facility in Gastonia, North Carolina.
2. Describe all of Homelite's actions to manage, store, or dispose of TCE or other VOCs that it used or acquired at its Gastonia facility.
3. Describe the containers used to transport wastes or hazardous substances from Homelite's Gastonia facility, including the type of container and any distinctive markings or labels on the containers.
4. List all materials that Homelite arranged to have Mr. R.A. McKee treat, haul away, or dispose.
5. List all materials that Homelite disposed, treated, or arranged to have disposed or treated at the Site, the Septic Pits Site, or the TCE Removal Site.
6. Provide copies of all contracts, agreements, waste logs, journals, notes, or any other written material related to Homelite's transactions with Mr. R.A. McKee or any other party that owned or operated the Harwell Road septic pits.
7. Provide names, addresses, telephone numbers, and email addresses of any individuals, including former and current employees, who may be knowledgeable of Homelite's Gastonia facility's operations and practices concerning the handling, storage and disposal of TCE or other hazardous substances from 1950 to 1989.